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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Robert B. Hope
Serial No.: 10/033,518 Confirmation No. 8646
Filed: December 28, 2001
For: WEATHER SEAL HAVING ELASTOMERIC MATERIALS
ENCAPSULATING A BENDABLE CORE
Examiner: Jerry E. Redman Art Unit: 3634
Atty. Docket: ULB-003CV

RESPONSE TO EXAMINER'S ANSWER OF NOVEMBER 14, 2005

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Items 1-3, 5-8, and 10/(7)(i), (7)(ii), and (7)(iv)a-c, (11) of the Answer are fully addressed in the main Brief. There are points in the main Brief as to the errors in the combination of references, rejections not addressed by the Examiner.

As to Item (4), there was a plurality of final rejections which required mention in Appellant's Brief to provide a complete statement of the case, especially since the earlier final rejections were not specifically stated as being withdrawn.

As to Item (9), the Examiner's reasons for rejection are insufficient to rebut Appellant's argument in that the Examiner merely restates identically what is stated in the final rejection. It is respectfully submitted that the final rejection has been addressed and rebutted in the Argument, in Section (7) of Appellant's Brief.

As to the Argument Item (7)(iii)(a), copies of court decisions are in the U.S.P.Q. and published Federal Court Reports, which are available on-line. It is, and has always been sufficient to provide citations of such decisions not copies thereof in full. Since the statement of the law under authority of the cited decisions is not rebutted, it should be taken as considered to be correct by the Examiner. Nothing is apparent from MPEP 1205 which requires providing copies of decisions cited in an Appeal Brief.

As to the Item (7)(iii)(b)-(d), the Examiner's reliance on a dictionary definition is misplaced under the recent decision of the Federal Circuit in its Phillip's decision, Phillips vs. AWH Corp., et al. Nos. 03-1269, 03-1286 (Fed. Cir. July 12, 2005)(*en banc*).

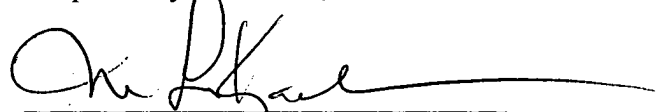
In Phillips, dictionaries definitions are to be used only as a last resort, and a claim term should be read in the context of the claim in which it arises, the other claims and the specification. Under the Phillips methodology, abutting parts cannot be interpreted of being in encapsulated relationship, notwithstanding a dictionary definition, which is ambiguous, and which clearly depends upon the context in which the term is used.

More specifically, the Examiner's statement that Keys (U.S. Patent No. 5,221,564) joint 28 (FIG. 3) "overlaps" anything is incorrect. The layers 21 and 17 are edge adjacent only – as stated in Keys; see the paragraph beginning on line 57 of column 3. Neither of the layers 21 and 17 are not shown or described by Keys as being "encapsulated".

The main Brief covers all of the arguments and contentions in the Examiner's Answer and is hereby incorporated as though set out in full herein.

For the reasons set forth, the main Brief as well as herein, the Examiner's decisions rejecting the claims should be reversed.

Respectfully submitted,



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Dated: January 5, 2006

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